

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LEROY JOSEY	:	CIVIL ACTION
	:	
v.	:	No. 11-3961
	:	
PENNSYLVANIA BOARD OF PROBATION AND PAROLE, et al.	:	

ORDER

AND NOW, this 14th day of September, 2012, upon careful and independent consideration of Petitioner Leroy Josey's pro se Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254, and after review of the Report and Recommendation of United States Magistrate Judge L. Felipe Restrepo, and Josey's objections thereto, it is ORDERED:

1. Josey's objections to the Report and Recommendation are OVERRULED.
2. The Report and Recommendation (Document 13) is APPROVED and ADOPTED.
3. This case is TRANSFERRED to the United States District Court for the Middle District of Pennsylvania.¹

¹ At the time Magistrate Judge Restrepo recommended this case be transferred to the Middle District of Pennsylvania for disposition, Josey was incarcerated at SCI-Smithfield, a State Correctional Institution in Huntingdon, Pennsylvania. Since that time, Josey has informed this Court that he has been relocated to SCI-Huntingdon, a State Correctional Institution also located in Huntingdon, Pennsylvania. Like SCI-Smithfield, SCI-Huntingdon is located in the Middle District of Pennsylvania. *White v. Grace*, No. 05-0164, 2005 WL 1309044, at *1 (M.D. Pa. June 1, 2005) (noting SCI-Huntingdon is located within the Middle District of Pennsylvania). Accordingly, as Magistrate Judge Restrepo recommended, because Josey challenges the actions of the Pennsylvania Board of Probation and Parole in his § 2254 habeas petition, and not the lawfulness of his underlying conviction, it would be more practical and equitable to transfer petitioner's habeas petition to the Middle District of Pennsylvania, where both he and his custodian are located. ECF No. 13, at 2; *see also Harris v. Pa. Bd. of Prob. & Parole*, No. 09-3345, 2009 WL 3151191, at *1 (E.D. Pa. Sept. 28, 2009) (adopting recommendation to transfer § 2254 petition challenging actions of Parole Board and not underlying conviction to the Middle District of Pennsylvania where petitioner and his custodian

4. The Clerk of Court is DIRECTED to forward all records and documents in this case to the Clerk of Court for the United States District Court for the Middle District of Pennsylvania.

It is further ORDERED:

- Josey's Motion to Move the Court (Document 15) is DENIED without prejudice;
- Josey's Motion to Compel (Document 17) is DENIED as moot;
- Josey's Motions for Cause (Document 18) are DENIED as moot; and
- Josey's letter request for a hearing (Document 19) is DENIED without prejudice.

The Clerk of Court is DIRECTED to mark this case CLOSED.

BY THE COURT:

/s/ Juan R. Sánchez
Juan R. Sánchez, J.

were located); *Dockins v. Pa. Bd. of Prob. & Parole*, No. 04-3771, 2004 WL 2406691, at *1 (E.D. Pa. Oct. 26, 2004) (recommending transfer of § 2254 petition challenging actions of Parole Board and not underlying conviction to the Middle District of Pennsylvania where petitioner and his custodian were located); *adopted*, No. 04-3771 (E.D. Pa. Jan. 4, 2005); *Perez v. Lavan*, No. 04-582, 2004 WL 838147, at *1 (E.D. Pa. Mar. 29, 2004) (same), *adopted*, No. 04-582, 2004 WL 1109691 (E.D. Pa. Apr. 14, 2004). Among other things, the inconvenience of transferring petitioner from Huntingdon, Pennsylvania, to Philadelphia for any hearings he has requested makes the Middle District a more appropriate forum. *See Harris*, 2009 WL 3151191, at *1; *Dockins*, 2004 WL 2406691, at *1; *Perez*, 2004 WL 838147, at *1. Accordingly, this Court approves Magistrate Judge Restrepo's recommendation to transfer Josey's habeas petition to the United States District Court for the Middle District of Pennsylvania.